



UNIVERSITY OF
TORONTO
FACULTY OF LAW



Materials for
PUBLIC INTERNATIONAL LAW (LAW254H1F)

VOLUME 2

September, 2006

Mr. John Terry
Adjunct Faculty of Law
University of Toronto

These Materials are sold at cost and
are not to be considered as published.
They are solely for the educational
use of students at the University of Toronto
or at other educational institutions
to whom the Materials
may also be sold at cost.

PUBLIC INTERNATIONAL LAW (LAW254H1F)

MATERIALS, VOLUME 2

TABLE OF CONTENTS

V. THE JURISDICTION OF STATES (CONTINUED)

H. Transnational Forcible Abduction

<i>United States v. Toscanino</i> , 500 F.2d 267 (2d Cir. 1974)	1
<i>United States v. Noriega</i> , 746 F.Supp. 1506 (S.D. Fla. 1990)	5
<i>United States v. Alvarez-Machain</i> , 112 S.Ct. 2188 (1992)	14
<i>R. v. Horseferry Road Magistrates' Court</i> , ex p. Bennett, [1994] 1 A.C. 42 (H.L.).....	19
<i>R. v. Walton</i> (1905), 10 C.C.C. 269 (Ont. C.A.)	27
<i>The Ship North</i> , [1906] S.C.R. 385	29

VI. INTERNATIONAL LEGAL PERSONALITY

1. Territory

"Acquisition of Territory" in Kindred, <i>supra</i> 399	33
<i>Island of Palmas Case</i> (Netherlands v. United States) (1982), 2 R.I.A.A. 829, as excerpted in Kindred, <i>supra</i> at 400	33
<i>Legal Status of Eastern Greenland</i> (Denmark v. Norway) (1933), P.C.I.J. Rep.(Ser.A/B), No. 53, as excerpted in Kindred, <i>supra</i> , at 405	38
<i>Western Sahara Case</i> [1975] I.C.J. Rep. 12 (Adv. Op.), as excerpted in Henkin et al, <i>International Law, Cases and Materials</i> , (2d ed. 1987).....	42
Sovereignty in the Canadian Arctic: Hans Island.....	47
New Utopia: Letter to UN Secretary General (See also website of the Principality of New Utopia: http://www.carbonfusion.com/utopia/).....	49

2. Self-Determination

U.N. General Assembly <i>Declaration on the Granting of Independence to Colonial Territories and Peoples</i> (1960)(and notes), in Harris <i>supra</i> at 114	50
<i>Reference Re Secession of Quebec</i> (1998), 161 D.L.R. (4th) 385 at 432-445	57

<i>Case Concerning East Timor</i> (Portugal v. Australia), [1995] I.C.J. Rep. 90, as excerpted in Kindred, <i>supra</i> at 59	71
---	----

3. Recognition

“Recognition”, in Kindred et al <i>supra</i> at 248-254.....	72
<i>Tinoco Concessions Arbitration</i> (Great Britain v. Costa Rica) (1923) 1 R.I.A.A. 375, as excerpted in Kindred et al, <i>supra</i> at 258-261	79
<i>The Arantzazu Mendi</i> , [1939] A.C. 256 (H.L.)	82
<i>Republic of Somalia v. Woodhouse Drake & Carey Suisse S.A.</i> , [1993] Q.B. 54.....	89

4. Case Study I -- The Disintegration of Yugoslavia

European Community, <i>Declaration on the Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union & Declaration on Yugoslavia</i> (December 16, 1991)	97
Ragazzi, “Introductory Note” (1992), 31 I.L.M. 1488, 1490.....	98
Pellet, “The Opinions of the Badinter Arbitration Committee: A Second Breath for the Self-Determination of Peoples” (1992) 3 Eur. J. Int’l L. 178	98
Badinter Committee Opinion No. 1 (SFRY: dissolution or secession?)	99
Badinter Committee Opinion No. 8 (is process of dissolution in SFRY complete?)	100
Badinter Committee Opinion No. 9 (how to regulate questions of succession as between states emerging from SFRY?)	101
Badinter Committee Opinion No. 10 (Entitlement of FRY to be recognized as a new state?)	102
“UN votes to expel Yugoslavia: Assembly move unprecedented” (<i>The Globe and Mail</i> , September 25, 1992)	104
Badinter Committee Opinion No. 2 (entitlement of Serbian population in Bosnia to right to self-determination)	105
Badinter Committee Opinion No. 4 (recognition of Bosnia-Herzegovina?).....	105
Badinter Committee Opinion No. 5 (recognition of Croatia?).....	107
Badinter Committee Opinion No. 6 (recognition of Macedonia?).....	108
Badinter Committee Opinion No. 3 (legal relevance of former internal boundaries)	111

5. Case Study II -- Rights of Aboriginal Peoples

Brownlie, "The Rights of Peoples in Modern International Law" in Crawford, ed., <i>The Rights of Peoples</i> (1988)	112
Sanders, "Aboriginal Rights: The Search for Recognition in International Law" in Bolt, Long & Little Bear, eds. <i>The Quest for Justice: Aboriginal Peoples and the Aboriginal Rights</i> (1985)	113
Anaya, "Indigenous Rights Norms in Contemporary International Law" (1991) 8 Ariz. J. Int'l & Comp. L. 1	116
<i>Lovelace Case</i>	118
<i>Marshall/Mikmaq Tribal Society v. Canada</i>	119
<i>Omniyak/Lubicon Lake Band v. Canada</i>	122
1993 Draft Declaration on the Rights of Indigenous Peoples (1995), 34 I.L.M. 541	126
Statement by the Government of Canada on Art. 3 of the 1993 Draft Declaration on the Rights of Indigenous Peoples Nov. 1996	129
Orkin, "Using the Inuit as Human Flagpoles" (<i>The Globe and Mail</i> , December 4, 1992) ...	131

VII. USE OF FORCE

1. Basic Principles

"United Nations Definition of Aggression, 174" in Kindred, <i>supra</i> at 1117	133
Comments by Canadian Delegation on Definition of Aggression and Notes, in Kindred, <i>supra</i> at 1120	135
<i>Nicaragua v. the United States</i> (I.C.J.)	138

2. Self-Defence

<i>The Caroline</i> (U.K. v. U.S.) (1837) and notes, in Kindred, <i>supra</i> at 1124	150
Schachter, "Self-Defence and the Rule of Law -- The Influence of Community Judgment" (1989) 83 A.J.I.L. 259	151
Security Council Debate on Israeli Attack on Iraqi Nuclear Reactor (June 12, 1981), in Kindred, <i>supra</i> at 1128	154

Security Council Resolution 487 on the Israel Attack (1981) and Notes, in Kindred, <i>supra</i> at 1129	155
<i>Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory</i> , Advisory Opinion, [2004] I.C.J. Rep. 136 (paras. 87, 138 - 139)	157
<i>A More Secure World: Our Shared Responsibility</i> , Report of the high-level Panel on Threats, Challenges and Change (29 November 2004) at 54-55 (Full Report at http://www.un.org/secureworld/)	159

3. Collective Measures Through the United Nations

Anglo-French Invasion of Suez: Debate in the House of Lords (1956)	160
U.N. General Assembly “Uniting for Peace” Resolution (1950) and Note on Peace-Keeping Forces	162
“Security Council Action under Chapter VII: Powers” (including a discussion of the Korean Question and the Invasion of Kuwait) in Harris, <i>supra</i> 949	164

4. Case Study -- Intervention in Iraq (2003)

United Nations Security Council, Resolution 1441, (Resolution on Iraq) Security Council meeting 46644, 8 November 2002	179
United Nations Security Council, Draft Resolution (S/2003/215) by Spain, the United Kingdom and the United States, 24 February 2003)	182
United Nations Security Council, Resolution 1483, 22 May 2003	184
The National Security Strategy of the United States of America, Chapter V - <i>Prevent Our Enemies from Threatening Us, Our Allies, and Our Friends with Weapons of Mass Destruction</i> , September 2002, pp. 13 - 16	191
William H. Taft IV, “The Legal Basis for Preemption” Memorandum, American Society of International Law, November, 2002	195
Letter from the United States of America to the United Nations Security Council, 20 March, 2003	198
Letter from the United Kingdom to the United Nations Security Council, 20 March 2003 .	199
Letter from Lord Goldsmith, AG to the UK Parliament, 17 March 2003	200
United Nations Security Council, Resolution 1546, 8 June 2004	201

5. Humanitarian Intervention

Alberts, "The United States Invasion of Panama" (1991) 1 Transnat'l L. & Contemp. Probs. 261	212
Letter from United States to UN Security Council Respecting Panama Invasion (December 20, 1989).....	216
Canadian Government Response to Panama Invasion (December 20, 1989)	215
UN General Assembly Resolution on Panama Invasion	217
Alberts, "The United States Invasion of Panama", <i>supra</i>	218
Gordon, "Humanitarian Intervention by the United Nations: Iraq, Somalia and Haiti"	220
UN Security Council Resolution 688 (1991) Concerning the Iraqi Civilian Population	224
UN Security Council Resolution 940 "The U.N. Resolution Clearing the Way for an Invasion of Haiti"	226
European Union Conclusions on Kosovo, April 8, 1999	227
Test of Broadcast by British Prime Minister Tony Blair, March 26, 1999	231
Decision on Review of Indictment of Slobodan Milosevic (May 24, 1999).....	233
Ruling of the Federal Constitutional Court of Yugoslavia on the NATO Assault on Yugoslavia (April 18, 1999).....	242
International Court of Justice, Press Release Respecting Jurisdictional Ruling on Legality of Use of force in Yugoslavia (June 2, 1999).....	246
Brownlie, "Thoughts on Kind-Hearted Gunmen" in Lillich, ed., <i>Humanitarian Intervention and the United Nations</i> (1973) at 139	248
Carothers, "Empirical Perspectives on the Emerging Norm of Democracy in International law" (1992) 86 Proc. A.S.I.L. 261.....	250
International Commission on Intervention and State Sovereignty, <i>The Responsibility to Protect</i> , pp. xi - xiii, 1-9	251

